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WHOLESALE CORPORATION

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

BARBARA C. PETTITT, an Individual,

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION;  
and DOES 1 to 50, inclusive,

Defendant.

Case No.

**DEFENDANT COSTCO WHOLESALE  
CORPORATION'S NOTICE OF  
REMOVAL**

Defendant, COSTCO WHOLESALE CORPORATION ("COSTCO"), pursuant to 28 U.S.C. §§1332, 1441 and 1446, hereby gives notice of the removal to this Court of the case styled, *Barbara C. Pettitt v. Costco Wholesale Corporation*, and Does 1 to 50, inclusive, filed in the Superior Court of the State of California, County of Merced, 21CV-00686 ("the Case"). As grounds for this removal, COSTCO states the following:

**I.**

**BACKGROUND**

**A. Plaintiff's Complaint**

1. On March 2, 2021, Plaintiff, BARBARA C. PETTITT ("Plaintiff"), filed her complaint ("the Complaint") against COSTCO in the Case. A copy of the Complaint is attached as Exhibit "A".

2. On April 20, 2022, COSTCO received the Complaint and Summons, via service

1 upon its Agent for Service of Process, CT Corporation.

2 3. Plaintiff alleges that on April 5, 2019, Plaintiff was injured when she fell at the  
3 COSTCO warehouse, located in Merced, California. Ex. A, p.2, ¶8.

4 **B. The Amount in Controversy**

5 4. Plaintiff claims to have suffered damages in the form of wage loss, loss of use of  
6 property, medical expenses, general damages, and loss of earnings and diminished future earnings.  
7 Ex. A., p.3, ¶¶11-13.

8 5. On April 20, 2022, Plaintiff served upon Costco's Agent for Service of Process, CT  
9 Corporation, Plaintiff's Statement of Damages, wherein Plaintiff asserts General Damages of  
10 \$500,000, Medical Expenses of \$21,472.13 and Future Medical Expenses of \$15,000. A copy of  
11 the Statement of Damages is attached as Exhibit "B".

12 **C. The Parties' Citizenship**

13 6. Based upon information and belief, Plaintiff was a Citizen of California and resident  
14 of the County of Merced, California on April 5, 2019; based upon information and belief, Plaintiff  
15 was a citizen of California and resident of the County of Merced, California when she filed the  
16 Complaint on March 21, 2021; and based upon information and belief, Plaintiff is a citizen of  
17 California and resident of the County of Merced, California at the time of filing of this Notice of  
18 Removal.

19 7. Defendant COSTCO was on April 5, 2019, and on March 2, 2021, when Plaintiff  
20 filed the Complaint, a Washington Corporation with its principal place of business in Issaquah,  
21 Washington, and COSTCO is at the time of filing this Notice of Removal a Washington Corporation  
22 with its principal place of business in Issaquah, Washington.

23 **II.**

24 **COMPLETE DIVERSITY OF CITIZENSHIP NOW EXISTS BETWEEN THE PARTIES**

25 8. A corporation is a citizen of its state of incorporation and the state in which its  
26 principal place of business is located. 28 U.S.C. 1332(c)(1); *Hertz Corp. v. Friend*, 559 U.S. 77, 80  
27 (2010). A corporation's principal place of business is "... the place where a corporation's officers  
28 direct, control, and coordinate the corporation's activities. It is the place that Courts of Appeals have

1 called the corporation's 'nerve center.'" *Id.* at 92-93. The "nerve center" is usually its headquarters.  
2 *Id.*

3 9. Based upon information and belief, Plaintiff was a citizen of California at the time  
4 of the April 5, 2019, accident, Plaintiff was a citizen of California, as the time of filing the  
5 Complaint, and Plaintiff is a citizen of California at the time of the filing of the Notice of Removal.

6 10. Defendant COSTCO was on April 5, 2019, and on March 2, 2021, when Plaintiff filed  
7 the Complaint, a Washington Corporation with its principal place of business in Issaquah,  
8 Washington, and COSTCO is at the time of filing this Notice of Removal a Washington Corporation  
9 with its principal place of business in Issaquah, Washington.

10 11. Thus, complete diversity of citizenship exists between the parties pursuant to 28  
11 U.S.C. Section 1332(a)(1).

12 **III.**

13 **THE AMOUNT IN CONTROVERSY WELL EXCEEDS \$75,000**

14 12. The Complaint does not allege a total amount in controversy, except that it is an  
15 unlimited civil case. However, Plaintiff provided an "other paper" as per 28 U.S.C. §§ 1446 (b)(3),  
16 prepared, upon information and belief, by Plaintiff's counsel, wherein Plaintiff served her Statement  
17 of Damages, dated April 18, 2022, and served April 20, 2022, wherein she states total damages of  
18 \$536,472.13. Accordingly, the amount in controversy in this case is in excess of \$75,000 pursuant  
19 to 28 U.S.C. 1446(c)(2).

20 **IV.**

21 **COSTCO TIMELY REMOVED UNDER 28 U.S.C. § 1446(B)(3)**

22 13 Defendant COSTCO has timely removed this action to the United States District  
23 Court for the Eastern District of California.

24 14. The Complaint and Summons were served upon Costco's Agent for Service of  
25 Process on April 20, 2022. Pursuant to 28 U.S.C. 1446(b)(1), Defendant COSTCO has thirty (30)  
26 days within which to file the notice of removal.

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28 \\\

V.  
**DEFENDANT HAS COMPLIED WITH THE PROCEDURAL REQUIREMENTS FOR  
REMOVAL**

15. Defendant attaches, as Composite Exhibit "C," all other process, pleadings and orders obtained by it not otherwise specifically referenced herein, pursuant to 28 U.S.C. Section 1446(a).

16. Venue properly rests in the Fresno Division of the United States District Court for the Eastern District of California, pursuant to 28 U.S.C. Section 1441(a) and Local Rule 120(d), since this action is being removed from the state court wherein it was originally filed in the Superior Court of the State of California, Merced County.

17. Defendant will file with the Clerk of the Court for the Superior Court of the State of California, Merced County, a copy of this Notice of Removal pursuant to 28 U.S.C. Section 1446(d), and will give written notice thereof to all adverse parties.

WHEREFORE, Defendant, COSTCO, hereby serves notice of the removal of this action to the United States District Court for the Eastern District of California.

Dated: May 20, 2022

McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

By: /s/Gregory S. Mason  
Gregory S. Mason  
Attorneys for Defendant COSTCO WHOLESALE  
CORPORATION

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